

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

LANCE BURY,	)	C/A No. 2:09-1708 DCN BM
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>ORDER</u></b>
	)	
FORCE PROTECTION, INC., GORDON R.	)	
MCGILTON, and MICHAEL MOODY,	)	
	)	
Defendants.	)	

The above referenced case is before this court upon the magistrate judge's recommendation that defendants' Michael Moody and Gordon R. McGilton Motions to Dismiss be granted.

This court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. Thomas v Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).<sup>1</sup> Objections to the magistrate judge's report and

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<sup>1</sup>In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the

recommendation were timely filed on July 8, 2011.

In his Objection to/Clarification of the Magistrate Judge's Report and Recommendation, Bury addresses his ability to amend his complaint. Plaintiff can file a Motion to Amend his Complaint pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, but the deadline for exercising this right should be addressed in any future scheduling orders.

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, defendants' Motions to Dismiss (doc #'s 40 & 41) are **GRANTED**, and defendants Michael Moody and Gordon R. McGilton are dismissed without prejudice.

**AND IT IS SO ORDERED.**

Charleston, South Carolina  
July 19, 2011



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David C. Norton  
Chief United States District Judge

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure

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appellate level of his failure to object to the magistrate judge's report.